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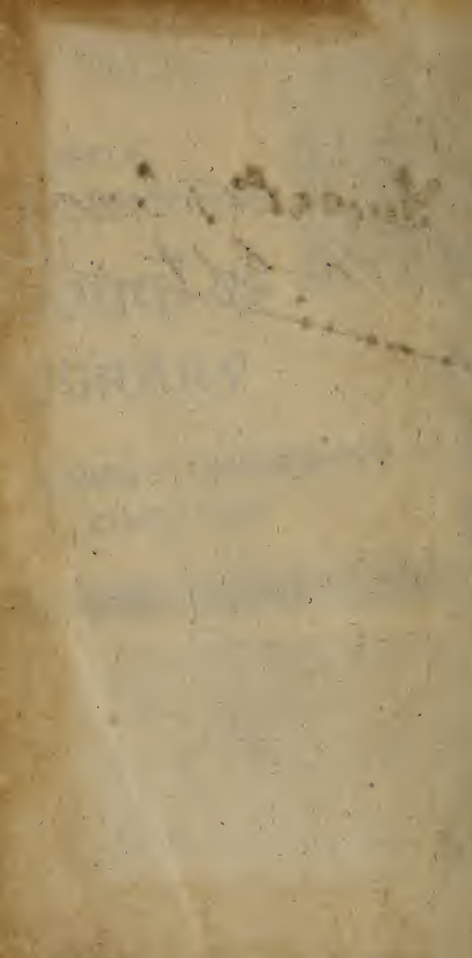
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Daniel Fleming
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Judg Jenkins

Remonstrance

TO THE

L O R D S

AND

C O M M O N S

OF

The two Houses of

PARLIAMENT at

WESTMINSTER.

The 21 of *February* 1647.

by *DAVID JENKINS*
Prisoner in *Newgate*



Printed in the Yeere 1648.

Reynolds

TO THE

O R D E R

AND

C O M M O N S

OF

The two Houses of

PARLIAMENT

WESTMINSTER

Printed by

W AND J EVANS

Printed in London



Printed in the Year 1848.



Judge Jenkins
 REMONSTRANCE
 TO THE
 LORDS and COMMONS
 AT
 WESTMINSTER

I Desire that the Lords and Commons of the two Houses, would be pleased to remember, and that all the good people of *England* do take notice of an Order of the House of Commons this Session, for publishing the Lord Cook his Bookes: which Order they may find printed in the last leafe of the second part of his institutes, in these words
viz.

Die

Die Mercurij 12 May 1641.

VPon debate this day in the Commons House of Parliament, the said House did then desire and held fit, that the heir of Sir Edward Cook should publish in Print the commentary upon *Magna Charta*, the plea of the Crown, and the Jurisdiction of the Courts, according to the intention of the said Sir Edward Cook, and that none but the Heir of the said Sir Edward Cook, or he that shall be authorized by him, do presume to publish in print any of the foresaid book or any Copy thereof.

H. Elfringe Clerk

Dom. Comm.



And I doe further desire them that they would read and peruse M. Solicitor Saint-Iohn, and Mr. Iohn Pym their books, published likewise this Session, whose titles are as followeth
viz.



AN Argument of Law concerning
the bill of attainder of high trea-
son of *Thomas Earle of Strafford*. At
conference in the Committee of both
houses of Parliament. By Mr. *Saint*
John his Majesties Solicitor General.
published by order of the Commons
house.

London Printed by G. M. for Io.
Bartlet, At the Sign of the *Guilt Cap*
near S. Austins gate in Paules
Church yard. 1641.

And the Speech or Declaration of
the *Pyth Esquire*. After the recapit-
ulation or summing up of the
charge of High Treason against
Thomas Earle of Strafford, 12 Aprill
1641.

Published by order of the Commons
house.

London Printed for *John Bartlet*
1641.



Nothing



Nothing is delivered for Law in my Books but what the House of Commons have avowed to be Law in Books of Law published by their command this Session, and agreeable to the books of Law, and Statutes of this realme in all former times and Ages.

2 The supposed offence charged on me is against the two Houses, and none ought to be judges and parties by the Law of this Land in their own case.

3. I desire the benefit of *Magna charta, the petition of right*, and other good Laws of this Land, which ordain that all mens tryalls should be by the *establisht Lawes and not otherwise* they are the very words of the Petition of Right.

1. part. col.
of ordina-
ces. fol. \
728. 2.
pars. inst.
fol. 47. 48.

An Ordinance of both Houses in no Law of the Land, by their own confession; and by the Books of the Lord Cooke published by their order as aforesaid, this Session in Six several places.

157. 143.
4. par. inst.
23. 232.
298
4. H. 7. 18.

For Sedition in my Books there is none, but such as they have authorised this Session to be published and printed to publish the Law is no sedition. These Positions following I do set down for the Law of the Land in my Book

books, & they themselves have justified and avowed them as aforesaid, we agree the Law to be, and to have been in all times in all the particulars following, as here ensueth.

1. To Imprison the King is high treason.

3. Part instit.
pag. 12.

2. To remove Councellours from the King by force is High Treason.

M. Solicitor
pag. 12.

3. To alter the establishd Lawes in any part by force is High Treason.

3 Part Instit.
pag. 9.

4. To usurpe the royall power is High Treason.

M. Pym. p. 28.
3. part. instit.

5. To alter the Religion establishd is High Treason.

3. 10. 12. 16.
3. part instit.

6. To raise Rumours and give out words to alienate the people's affections from the King is high treason.

pag. 9
M. Solicitor. p.

7. To sesse Souldiers upon the People of the Kingdome without their consent is High Treason.

O. 10. 136.
M. Solicitor

8. The execution of paper orders by souldiers in a military way is High Treason.

pag. 9
M. Solicitor

9. To counterfeit the great Seal is High Treason.

pag. 9
M. Solicitor

10. The Commission of Array is in force and none other,

pag. 23.
4. part. 4. inst.

11. None can make Iudges, Iustices, Sheriffs, &c. but the King; the King makes every Court.

P. 125.
Justice Hat-

12. The great Seal belongs to the Kings Custody, or to whom he shall appoint, and none other.

cons. argu-
ment, fol. 39.

40.
4. part instit.

2 part. Inst.
artical.

super chartas
cap. 5

13. Ord.

- 1 part. coll. of Ordin. & Cook ut supra.
4. part. inst. 25.
13. Ordēances of one or both houses are no lawes to bind the people.
14. No privilege of Parliament, holds for Treason, Felony, or breach of the Peace, not for 20. Parliament-men forty, nor three hundred.
15. To subvert the fundamentall lawes is High Treason.
16. To levy war against the person of the King is high Treason.
17. To perswade Forreiners to levy war within this Kingdome is High Treason.
18. To impose unlawfull Taxes, to impose new Oatbes, is high Treason.
19. The King can doe no wrong.
20. It is a pernicious Doctrine to teach Subjects, they may be discharged from the oath of Allegiance. Then what means the Doctrine of both Houses of the Votes. 11. of Feb. 1647.
21. A necessity of a mans own making doth not excuse him. The requiring & forcing of the Militia, brought the necessity of arming upon the Houses.
- " None can levy war within this
" Realm without authority from the
" King, for to him only it belongeth
" to levy war, by the common law of
" the Land to do otherwise is High
" Treason by the said Common law.
The only quarrel was & is the Militia

for which so much blood hath been
 shed, and Treasure.

No Parliament without the King
is Principium, caput & finis.

Presentment or tryall by Jury, is
birth-right of the Subject.

There is no doubt but that many in
 the Houses are free from this great
 calamity, and that most of the prevailing
 party, had at first no intentions to pro-
 ceed so farre; but the madnesse of the
 people [who are very unstable, and so
 you will find them,] and the succeſſe
 of their Armies [having this great rich-
 ty to supply them, with all accommo-
 dations] have so elated them, that the
 matter is come to this height.

For my selfe, to put me to death in
 this cause, is the greatest honour I can
 possibly receive in the world : *Dulce*
decorum est mori pro patria and for
 a Lawyer and a Judge of the Law, to
 die, *dum sanctis patrie legibus obsequi-*
 for obedience to the Lawes; will be
 esteemed by the good men of this time
 as a sweet smelling sacrifice; and by this
 and future Times, that I dyed full of
 honours, and had an honest and an ho-
 nourable end; And posterity will take
 knowledge of these Men who put some
 to death for subverting of the Lawes,
 others for supporting of them &c.

M. Solici-
 70. 71.

4. part. inst
 P: 1. 3. 4.

4 pars inst
 41. 356.

Yet

Bracton l. Yet mercy is above all the workes
 c. 9. p. 10. 7 of God. *The King is Gods Vicar on*
 4 pars inst *earth.* In Bracton, who was a Iudg in
 342. 343. Henry 3. time, you shall find the
 Stanford Kings Oath; *To shew mercy is part of*
 99. it. You are all his children; say, & doe
 what you will, you are all his Subjects
 and *He is your King and parent.* *Pro*
magno peccato paululum supplicij sa-
tis est patri; and therefore let not the
 prevailing party be obdurate, out of a
 desperation of safety: That which is
 past is not revocable; Take to your
 thoughts your parents, your wives, your
 children, your friends, your fortunes,
 your countrey, wherein Forreigners
 write there is *Misa aeris suavitatis &*
rerum omnium abundantia. Invite not
 them hither, the only way to be free of
 their company will be; *To restore his*
Majesty, and receive from him an Act
of Oblivion; a generall pardon, assu-
rance for the Arrears of the Souldier,
and meet satisfaction to tender consci-
ences.

God preserve the King and the Lawes

DAVID JENRINS,

Prisoner in Newgate.

FINIS







